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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202823
Party	Defendant Paul Shim
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Submission	Answer
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Date	01/12/2012
Attachments	01122012 USPTO BTTAB Answer re Pozen Opposition 91202823.pdf (5 pages)(751638 bytes)

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD 3 4 Application Serial No.: 85/249961 MARK: PowerZEN 5 Applied on: Feb. 26, 2011 Published on: July 26, 2011 6 Opposition Filed on: November 28, 2011 7 8 9 POZEN, INC., **Opposition No.: 91202823** 10 Petitioner, 11 ANSWER OF THE APPLICANT TO THE 12 VS. PETITION FOR OPPOSITION 13 PAUL SHIM. **Applicant** 14 15 16 17 Paul Shim (hereinafter referred to as "Applicant"), by and through its undersigned 18 attorney, hereby answers the Petition for Opposition filed by POZEN, INC., (hereinafter 19 referred to as "Petitioner"), and admits, denies and alleges, in accordance with the numbered 20 paragraphs of the Petition for Opposition, as follows: 21 22 **ANSWER TO PETITION FOR OPPOSITION** 23 Applicant is without knowledge or information sufficient to either admit or deny 1. 24 the allegations in the paragraph 1, and therefore, denies each and every allegation therein. 25 Applicant is without knowledge or information sufficient to either admit or deny 26 the allegations in the paragraph 2, and therefore, denies each and every allegation therein. 27 Applicant admits the allegations in the paragraph 3. 3. 28 Applicant admits the allegations in the paragraph 4. 4.

Answer to Opposition USTTA 91202823

1	5.	Applicant admits the allegations in the paragraph 5.	
2	6.	Applicant admits the allegations in the paragraph 6.	
3	7.	Applicant does not need to either admit or deny the allegation in paragraph 7.	
4	8.	Applicant admits the allegations in the paragraph 8.	
5	9.	Applicant admits the allegations in the paragraph 9.	
6	10.	Applicant denies each and every allegation in paragraph 10.	
7	11.	Applicant is without knowledge or information sufficient to either admit or deny	
8	the allegations	s in the paragraph 11, and therefore, denies each and every allegation therein.	
9	12.	Applicant is without knowledge or information sufficient to either admit or deny	
10	the allegations in the paragraph 12, and therefore, denies each and every allegation therein.		
11	13.	Applicant admits the allegations in the paragraph 13.	
12	14.	Applicant denies each and every allegation in paragraph 14.	
13	15.	Applicant denies each and every allegation in paragraph 15.	
14	16.	Applicant denies each and every allegation in paragraph 16.	
15	17.	Applicant denies each and every allegation in paragraph 17.	
16	18.	Applicant denies the allegation in paragraph 18 in general, other than the	
17	allegation that	if the Applicant is granted registration of its POWEZEN mark as shown in	
18	Application No. 85/249961, the Applicant will thereby obtain the prima facie exclusive right to		
19	use the POWERZEN mark.		
20	19.	Applicant denies each and every allegation in paragraph 19.	
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22		AFFIRMATIVE DEFENSES	
23	FIRST AFFI	RMATIVE DEFENSE	
24	1.	As a first and separate affirmative defense, Applicant is informed and believes,	
25	and on this bas	sis asserts that Petitioner has stated no claim upon which relief can be granted.	
26	SECOND AFFIRMATIVE DEFENSE		
27	2.	As a second and separate affirmative defense, Applicant is informed and	
28	believes, and o	on this basis asserts that Petitioner does not have a standing to bring this	
	Opposition		

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THIRD AFFIRMATIVE DEFENSE

As a third and separate affirmative defense, Applicant is informed and believes, 3. and on this basis asserts that Petitioner's claims are barred by the doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

4. As a fourth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Petitioner's claims are barred by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

As a fifth and separate affirmative defense, Applicant is informed and believes, 5. and on this basis asserts that there is no likelihood of confusion between POWERZEN and POZEN.

SIXTH AFFIRMATIVE DEFENSE

6. As a sixth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that there is no similarity between POWERZEN and POZEN.

SEVENTH AFFIRMATIVE DEFENSE

7. As a seventh and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that there is a substantial different in chain of commerce or trade for POWERZEN and POZEN.

EIGHTH AFFIRMATIVE DEFENSE

8. As a eighth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that the customers for POWERZEN and POZEN are substantially different and not-related.

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COUNTERCLAIMS

No counterclaims are being filed.

WHEREFOR, APPLICANT prays for relief as follows:

- 1. That Petitioner's Petition be denied; and
- 2. For such other relief as the Board deems just and proper.

Respectfully submitted,

LAW OFFICE OF LEE & ASSOCIATES

Dated: January 12, 2012

Yong Bom (Brian) Lee, Wilson B. Quan, Hyong C. Kim

Attorneys for Applicant

Telephone Number: (213) 368-7717

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA COUNTY OF LOS ANGELES

I am a resident of the country aforesaid; am over the age of eighteen years and not a party to the within action. My business address is 3530 Wilshire Blvd., Suite 1280 Los Angeles, CA 90010.

On January 12, 2012, I served the within documents:

Answer to the Petition for Opposition

On the interested parties in the above action, by faxing and mailing a true copy thereof as follows:

John E. Lyhus Fitch, Even, Tabin & Flannery 120 South LaSalle, Suite 1600 Chicago, Illinios 60603-3406

Executed on January 12, 2012, at Los Angeles, California

[] STATE I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[X] FEDERAL I declare that I am employed in the office of a member of the bar of Federal Court at whose direction the service was made.

Su Lee